IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 15145 of 2004

Between:

S. Khader Basha S/o. S. Imam Saheb, Yerraguntla, Presently Working at Pakala Excise P.S., Pakala, Chittoor District.

..... PETITIONER

AND

1. The Deputy Commissioner of Prohibition and Excise, Kurnool, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in reverting the petitioner from the post of Excise Sub-Inspector to Excise Head Constable in his Rc.No.A2/1128/93-11, Dt. 30.10.1999 as confirmed in O.A.No.6796/99 Dt. 05.07.2004 as illegal, unjust, arbitrary, and contrary to the statutory provisions including G.O.Ms.No.225 G.A.(Ser-C) Dept., dt. 18.05.1999 and against the principles of natural justice and consequently set aside the order passed by the respondent in his Rc.No.A2/1128/93-11, Dt. 30.10.1999 and pass.

Counsel for the Petitioner: MR.L.J.VEERA REDDY.

Counsel for the Respondent: GP FOR SERVICES II.

The Court at the stage of admission made the following :

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.15145 of 2004

ORAL ORDER : (per GR,J)

The petitioner's seniority in the category of Excise Head Constable was restored and he was granted seniority in the said category with effect from 24.5.1982. As a consequence he was considered and temporarily promoted as Excise Sub-Inspector by the proceedings of the Deputy Commissioner of Prohibition and Excise, Kurnool, dated 11.2.1997. Such promotion was given to the petitioner notwithstanding that he

did not qualify viz., he did not possess a pass in the prescribed departmental tests which were the pre-requisite for promotion as Excise Sub-Inspector. He was so promoted on a temporary and adhoc basis subject *inter alia* to the conditions specified in the order of promotion dated 11.2.1997. One of the conditions is that he should pass the departmental tests within a period of one year namely, within two chances and if he does not pass the tests within the stipulated time, he would face reversion to the category from which he was promoted and shall not be eligible for promotion under the rules. The petitioner did not pass the departmental tests within time or at all. Consequently, by the proceedings dated 30.10.1999, the petitioner was reverted as Excise Head Constable.

Assailing the order dated 30.10.1999, issued by the respondent herein, the petitioner filed O.A.No.6796 of 1999 before the Tribunal. The Tribunal by order dated 5.7.2004 dismissed the OA. The grievance of the petitioner urged before the Tribunal and reiterated here is that in the impugned order of the respondent herein dated 30.10.1999, reference is made to two government orders in G.O.Ms.No.225, GAD (Ser-C) Department, dated 18.5.1999 and G.O.Ms.No.165, G.A (Ser-C) Department, dated 24.2.1997 which have no relevance or applicability to the case of the petitioner. Be that as it may, on the substantive facts, namely, his ineligibility to be continued in the post of Excise Sub Inspector on account of his failure to possess the requisite qualification, namely, passing of the departmental tests, the petitioner has no answer.

As the petitioner is demonstrably unqualified to be continued as Excise Sub Inspector, the order dated 30.10.1999 reverting him on the ground of lack of qualifications cannot be faulted. The writ petition has nothing to commend for its admittance. It is accordingly dismissed at the stage of admission.

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knk 29.09.2004

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To

1. The Deputy Commissioner of Prohibition and Excise, Kurnool, Kurnool District.

2. Two CCs to the G.P. for Services-II, High Court of A.P., Hyderabad (OUT).

3. Two CD copies.